

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
WAUSAU UNDERWRITERS INSURANCE  
COMPANY and AXIS SPECIALTY INSURANCE  
COMPANY,

Plaintiffs,

**RULE 26 DISCLOSURE**

Docket No.:  
06 CV 3212

-against-

QBE INSURANCE CORPORATION and  
SCOTTSDALE INSURANCE COMPANY,

Defendants.  
-----X

**COUNSELORS:**

**PLEASE TAKE NOTICE**, that the following is the Automatic Disclosure Response pursuant to FRCP 26(a)(1) of defendant Scottsdale Insurance Company ("Scottsdale"):

(A) The identity of all persons with pertinent information respecting claims, defenses and damages are currently unknown at this time; however, James Hardina of Scottsdale is the claims examiner assigned to this claim.

(B) All documents which bear significantly on the claims and defenses are currently unknown.

(C) Not applicable to defendant.

(D) Scottsdale attaches hereto as Exhibit "A" a copy of the Scottsdale policy, numbered BCS0008003, that was in effect from May 3, 2004 to May 3, 2005.

Dated: Mineola, New York  
July 20, 2006

Yours, etc.,

KRAL, CLERKIN, REDMOND, RYAN  
PERRY & GIRVAN, LLP  
Attorneys for Defendant  
SCOTTSDALE INSURANCE COMPANY  
69 East Jericho Turnpike  
Mineola, New York 11501  
(516) 742-3470

By:   
LEONARD PORCELLI, ESQ. (LP5998)

TO: JAFFE & ASHER, LLP  
Attorneys for Plaintiffs  
WAUSAU UNDERWRITERS INS.  
CO. and AXIS SPECIALTY INS. CO.  
600 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10016  
(212) 687-3000

WILSON, BAVE, CONBOY, COZZA & COUZENS, P.C.  
Attorneys for Defendant  
QBE INSURANCE CORPORATION  
Two William Street  
White Plains, New York 10601  
(914) 686-9010

**AFFIDAVIT OF SERVICE**  
**BY REGULAR MAIL**

STATE OF NEW YORK )  
: ss.  
COUNTY OF NASSAU )

JEANNE A. BLANCHARD, being duly sworn deposes and says:

Deponent is not a party to the action, is over Eighteen (18) years of age and resides in North Bellmore, New York.

On July 20, 2006 deponent served the within RULE 26 Disclosure by mailing the same in a sealed envelope, with postage paid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: JAFFE & ASHER, LLP  
Attorneys for Plaintiffs  
WAUSAU UNDERWRITERS INS.  
CO. and AXIS SPECIALTY INS. CO.  
600 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10016  
(212) 687-3000

WILSON, BAVE, CONBOY, COZZA & COUZENS, P.C.  
Attorneys for Defendant  
QBE INSURANCE CORPORATION  
Two William Street  
White Plains, New York 10601

  
JEANNE A. BLANCHARD

Sworn to before me this  
20 day of July, 2006

  
NOTARY PUBLIC

ELIZABETH PENAGOS  
Notary Public, State of New York  
No. 01PE5051168  
Qualified in Nassau County  
Commission Expires Oct. 30, 2009

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKWAUSAU UNDERWRITERS INSURANCE COMPANY AND AXIS SPECIALTY  
INSURANCE COMPANY,

Plaintiffs,

-against-

QBE INSURANCE CORPORATION AND SCOTTSDALE INSURANCE  
COMPANY

Defendants.

## SCOTTSDALE INSURANCE COMPANY'S REPLY TO CROSS-COMPLAINT

KRAL, CLERKIN, REDMOND, RYAN  
PERRY & GIRVAN, LLP

Attorneys for

69 EAST JERICHO TURNPIKE  
MINEOLA, NEW YORK 11501  
(516) 742-3470

§2103 (b) (5) Notice: Service of Papers by Electronic Means is Not Accepted

*Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.*

Dated: July 20, 2006

Signature.....

Print Signer's Name.....LEONARD PORCELLI, ESQ.

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

## PLEASE TAKE NOTICE

Check Applicable Box

☐  
NOTICE OF  
ENTRYthat the within is a (certified) true copy of a  
entered in the office of the clerk of the within named Court on

20

☐  
NOTICE OF  
SETTLEMENTthat an Order of which the within is a true copy will be presented for settlement to the  
Hon. one of the judges of the within named Court,  
at  
on

20

, at

M.

Dated:

KRAL, CLERKIN, REDMOND, RYAN  
PERRY & GIRVAN, LLP

Attorneys for


69 EAST JERICHO TURNPIKE  
MINEOLA, NEW YORK 11501

To:

Attorney(s) for

# ***EXHIBIT “A”***

K3S-1/21/2005 9:52:00 AM

Renewal of Number BCS0005680		 <b>SCOTTSDALE INSURANCE COMPANY®</b>		Policy Number BCS0008003	
Home Office: One Nationwide Plaza - Columbus, Ohio 43215 Administrative Office: 8877 North Gainey Center Drive, Scottsdale, Arizona 85258 1-800-423-7675 (outside Arizona) A STOCK COMPANY					
<b>COMMON POLICY DECLARATIONS</b>					
<hr/> <b>Item 1. Named Insured and Mailing Address</b> <hr/>					
ARENA CONSTRUCTION COMPANY, INC. 45 KNOLLWOOD RD ELMSFORD NY 10523					
<hr/> <b>Agent Name and Address</b> <hr/>					
CRC INSURANCE SERVICES INC 80 BROAD ST 25TH FL NEW YORK NY 10004					
		Agent No. 31729		Program No.: NONE	
<hr/> <b>Item 2. Policy Period</b>					
From:		05-03-04		To: 05-03-05	
				Term: 1 Year	
12:01 A.M., Standard Time at your mailing address					
<b>BROKERAGE</b>					

**Business Description:** GENERAL CONTRACTOR

In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy. This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.

Coverage Part(s)	Premium
Commercial General Liability Coverage Part	\$ _____
Commercial Property Coverage Part	\$ _____
Commercial Crime Coverage Part	\$ _____
Commercial Inland Marine Coverage Part	\$ _____
Commercial Auto (Business Auto or Truckers) Coverage Part	\$ _____
Commercial Garage Coverage Part	\$ _____
Professional Liability Coverage Part	\$ _____
	\$ _____
	\$ _____
<b>Total Policy Premium</b>	\$ _____
	\$ _____
	\$ _____

Form(s) and Endorsement(s) made a part of this policy at time of issue:

**See Schedule of Forms and Endorsements**

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY.

OPS-D-1 (12-00)

**COMPANY ISSUED**

## POLICY

Home Office Coordination



SCOTTSDALE INSURANCE COMPANY®

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
 SUPPLEMENTAL DECLARATIONS**

Policy No. BCS0008003

Effective Date: 05-03-04

12:01 A.M., Standard Time

Named Insured ARENA CONSTRUCTION COMPANY,

Agent No. 31729

**Item 1. Limits of Insurance**

Coverage	Limit of Liability	
Aggregate Limits of Liability	\$ 1,000,000	Products/Completed Operations Aggregate
	\$ 2,000,000	General Aggregate (other than Products/Completed Operations)
Coverage A - Bodily Injury and Property Damage Liability  Damage To Premises Rented To You	\$ 1,000,000	any one occurrence subject to the Products/Completed Operations and General Aggregate Limits of Liability
	\$ 100,000	any one premises subject to the Coverage A occurrence and the General Aggregate Limits of Liability
Coverage B - Personal and Advertising Injury Liability	\$ 1,000,000	any one person or organization subject to the General Aggregate Limits of Liability
Coverage C - Medical Payments	\$ 5,000	any one person subject to the Coverage A occurrence and the General Aggregate Limits of Liability

**Item 2. Form of Business and Location of Premises**

Form of Business: GENERAL CONTRACTOR

☐ Individual ☐ Partnership ☐ Joint Venture ☐ Trust ☐ Limited Liability Company

☒ Organization including a corporation (other than Partnership, Joint Venture or Limited Liability Company)

Location of All Premises You Own, Rent or Occupy:

See Schedule of Locations

**Item 3. Forms and Endorsements**

Form(s) and Endorsement(s) made a part of this policy at time of issue:

See Schedule of Forms and Endorsements

**Item 4. Premiums**

Coverage Part Premium:	\$	
Other Premium:	\$	
Total Premium:	\$	

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.





SCOTTSDALE INSURANCE COMPANY®

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
EXTENSION OF SUPPLEMENTAL DECLARATIONS**

Policy No. BCS0008003

Effective Date: 05-03-04

12:01 A.M., Standard Time

Named Insured ARENA CONSTRUCTION COMPANY,

Agent No. 31729

Prem. No. 001	Bldg. No.	Class Code 91341	Exposure \$ 100,000	Basis PAYROLL/NEAREST THOUSAND	
Class Description: CARPENTRY - INTERIOR				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No. 001	Bldg. No.	Class Code 91580	Exposure \$ 100,000	Basis PAYROLL/NEAREST THOUSAND	
Class Description: CONTRACTORS - EXECUTIVE SUPERVISORS OR EXECUTIVE SUPERINTENDENTS (PRODUCTS-COMPLETED OPERATIONS ARE SUBJECT TO THE GENERAL AGGREGATE LIMIT)				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No. 001	Bldg. No.	Class Code 91585	Exposure \$ 4,200,000	Basis TOTAL COST/NEAREST THOUSAND	
Class Description: CONTRACTORS - SUBCONTRACTED WORK - IN CONNECTION WITH CONSTRUCTION, RECONSTRUCTION, REPAIR OR ERECTION OF BUILDINGS				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code 49950	Exposure	Basis	
Class Description: ADDITIONAL INTEREST: BLANKET GLS-210S W/OPTION B				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium





SCOTTSDALE INSURANCE COMPANY®

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
EXTENSION OF SUPPLEMENTAL DECLARATIONS**

Policy No. BCS0008003

Effective Date: 05-03-04

12:01 A.M., Standard Time

Named Insured ARENA CONSTRUCTION COMPANY,

Agent No. 31729

Prem. No.	Bldg. No.	Class Code 49950	Exposure	Basis	
Class Description: ADDITIONAL INTEREST: BLANKET WAIVER				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code 73444	Exposure	Basis	
Class Description: EMPLOYEE BENEFITS				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code	Exposure	Basis	
Class Description:				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code	Exposure	Basis	
Class Description:				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium



SCOTTSDALE INSURANCE COMPANY®

## SCHEDULE OF FORMS AND ENDORSEMENTS

Policy No. BCS0008003

Effective Date: 05-03-04

12:01 A.M., Standard Time

Named Insured ARENA CONSTRUCTION COMPANY,

Agent No. 31729

### COMMON POLICY FORMS AND ENDORSEMENTS

OPS-D-1	12-00	COMMON POLICY DECLARATIONS
UTS-SP-2L	12-95	SCHEDULE OF FORMS & ENDORSEMENTS
UTS-SP-3	08-96	SCHEDULE OF LOCATIONS
IL 00 17	11-98	COMMON POLICY CONDITIONS
IL 00 23	04-98	NUCLEAR ENERGY LIABILITY EXCLUSION ENDT.
UTS-74G	08-95	PUNITIVE OR EXEMPLARY DAMAGE EXCLUSION
UTS-9G	05-96	SERVICE OF SUIT CLAUSE
UTS-COVPG	10-03	COVER PAGE

### GENERAL LIABILITY FORMS AND ENDORSEMENTS

CLS-SD-1L	08-01	COMMERCIAL LIABILITY COVERAGE PART DEC
CLS-SP-1L	10-93	GENERAL LIABILITY COVERAGE PART-EXT.
CG 00 01	10-01	COMMERCIAL GENERAL LIABILITY COV FORM
CG 00 62	12-02	WAR LIABILITY EXCLUSION
CG 21 47	07-98	EMPLOYMENT-RELATED PRACTICES EXCLUSION
CG 21 54	01-96	EXCL - DESIGNATED OPERATIONS
CG 21 55	09-99	TOTAL POLLUTION EXCL. WITH HOSTILE FIRE
CG 21 67	04-02	FUNGI OR BACTERIA EXCLUSION
CG 21 75	12-02	EXCL CERTIF ACTS OF TERRORISM & OTHR ACT
CG 22 79	07-98	EXCL-CONTRACTORS-PROF LIAB
CG 24 04	10-93	WAIVER-TRANS RIGHTS AGAINST OTHERS TO US
CG 25 03	03-97	DESIGNATED CONSTRUCTION PROJECTS GENERAL
CG 25 04	03-97	DESIGNATED LOCATIONS GENERAL AGGREGATE
GLS-136S	10-95	NOTICE OF OCCURRENCE
GLS-137S	10-95	KNOWLEDGE OF OCCURRENCE
GLS-148S	06-99	LIABILITY DEDUCTIBLE (PER OCC/OFF)
GLS-152S	12-96	AMENDMENT TO OTHER INS CONDITION
GLS-169S	08-97	EMPLOYEE BENEFIT LIABILITY
GLS-210S	04-99	ADDTL OWNERS-CONTRACTORS-OPTIONAL
GLS-30S	06-98	CONTRACTORS SPECIAL CONDITION
GLS-58S	12-93	LEAD CONTAMINATION EXCLUSION
GLS-74S	11-01	AMENDMENT OF CONDITIONS
UTS-131G	03-92	ASBESTOS EXCLUSION
UTS-291S	06-01	RESIDENTIAL EXCLUSION
GLS-226S	10-00	CONTRACTUAL LIABILITY - RAILROADS
GLS-230S	01-03	MIN AND ADV PREM/MIN EARNED CANCEL PREM
UTS-301G	07-02	SUBSIDENCE EXCL
UTS-72G	10-03	ENDT



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CONTRACTORS SPECIAL CONDITIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following condition is added to **SECTION IV—COMMERCIAL GENERAL LIABILITY CONDITIONS** section of the policy:

**CONTRACTORS SPECIAL CONDITIONS**

You will obtain certificates of insurance from all independent contractors providing evidence of :

1. Limits of Insurance equal to or greater than the limits provided by this policy; and
2. Coverage equal to or greater than the coverages provided by this policy.

Failure to comply with this condition does not alter the coverage provided by this policy. However, should you fail to comply a premium charge will be made. This premium charge will be based on the "total cost" of all work sublet.

"Total cost" means the cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work and all fees, bonuses or commissions paid.

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE\_\_\_\_\_  
DATE

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 25 03 03 97

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

Designated Construction Projects:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under COVERAGE A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under COVERAGE C regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits".
  3. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
  4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.
- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.

D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

E. The provisions of Limits Of Insurance (SECTION III) not otherwise modified by this endorsement shall continue to apply as stipulated.



SCOTTSDALE INSURANCE COMPANY®

### SCHEDULE OF LOCATIONS

Policy No. BCS0008003

Effective Date: 05-03-04

12:01 A.M., Standard Time

Named Insured ARENA CONSTRUCTION COMPANY,

Agent No. 31729

Prem. No.	Bldg. No.	Designated Premises (Address, City, State, Zip Code)	Occupancy
001		45 KNOLLWOOD RD ELMSFORD, NY 10523-0000	
002		253 UTICE AVE BROOKLYN, NY 11213-0000	
003		29-42 NORTHERN BLVD LONG ISLAND CITY, NY 11101-0000	
004		230 WILLOW ST YONKERS, NY 10701-0000	



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT

NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named insured ARENA CONSTRUCTION COMPANY

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PUNITIVE OR EXEMPLARY DAMAGE EXCLUSION**

In consideration of the premium charged, it is agreed that this policy does not apply to a claim of or indemnification for punitive or exemplary damages.

Punitive or exemplary damages also include any damages awarded pursuant to statute in the form of double, treble or other multiple damages in excess of compensatory damages.

If suit is brought against any insured for a claim falling within coverage provided under the policy, seeking both compensatory and punitive or exemplary damages, then the Company will afford a defense to such action; however, the Company will have no obligation to pay for any costs, interest or damages attributable to punitive or exemplary damages.

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE





SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT

NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### SERVICE OF SUIT CLAUSE

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due under this policy, the Company at the request of the Insured (or reinsured), will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give the Court jurisdiction. All matters which arise will be determined in accordance with the law and practice of the Court. In a suit instituted against any one of them under this contract, the Company agrees to abide by the final decision of the Court or of any Appellate Court in the event of an appeal.

Pursuant to any statute of any state, territory or district of the United States of America which makes a provision, the Company will designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the Insured (or reinsured) or any beneficiary arising out of this contract of Insurance (or reinsurance).

The officer named below is authorized and directed to accept service of process on behalf of the Company:

SUPERINTENDENT OF INSURANCE

EMPIRE STATE PLAZA, AGENCY BUILDING ONE

ALBANY, NY 12257

Having accepted service of process on behalf of the Company, the officer is authorized to mail the process or a true copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

POLICY NUMBER: BCS0008003

COMMERCIAL GENERAL LIABILITY  
CG 21 54 01 96

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - DESIGNATED OPERATIONS COVERED BY A  
CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Description and Location of Operation(s):

**ALL "WRAP-UP" PROJECTS**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The following exclusion is added to paragraph 2.,  
Exclusions of COVERAGE A - BODILY INJURY  
AND PROPERTY DAMAGE LIABILITY (Section I -  
Coverages):

This insurance does not apply to "bodily injury" or  
"property damage" arising out of either your ongoing  
operations or operations included within the "products-  
completed operations hazard" at the location described  
in the Schedule of this endorsement, as a consolidated  
(wrap-up) insurance program has been provided by the

prime contractor/project manager or owner of the  
construction project in which you are involved.

This exclusion applies whether or not the consolidated  
(wrap-up) insurance program:

- (1) Provides coverage identical to that provided by this  
Coverage Part;
- (2) Has limits adequate to cover all claims; or
- (3) Remains in effect

POLICY NUMBER: BCS0008003

COMMERCIAL GENERAL LIABILITY  
CG 24 04 10 93

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name of Person or Organization:**

ANY PERSON OR ORGANIZATION THAT THE INSURED HAS AGREED  
AND/OR IS REQUIRED BY CONTRACT TO WAIVE RIGHTS OF RECOVERY  
AGAINST, PER SCHEDULE ON FILE WITH COMPANY

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

POLICY NUMBER: BCS0008003

COMMERCIAL GENERAL LIABILITY  
CG 25 03 03 97

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DESIGNATED CONSTRUCTION PROJECT(S)  
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Designated Construction Projects:  
**ALL PROJECTS**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under COVERAGE A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under COVERAGE C regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits".
  3. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.
- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.

D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

E. The provisions of Limits Of Insurance (SECTION III) not otherwise modified by this endorsement shall continue to apply as stipulated.

POLICY NUMBER: BCS0008003

COMMERCIAL GENERAL LIABILITY  
CG 25 04 03 97

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED LOCATION(S) GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Designated Location(s):**

ALL LOCATIONS

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by -occurrences- under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION I), which can be attributed only to operations at a single designated -location- shown in the Schedule above:
1. A separate Designated Location General Aggregate Limit applies to each designated -location-, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  2. The Designated Location General Aggregate Limit is the most we will pay for the sum of all damages under COVERAGE A, except damages because of -bodily injury- or -property damage- included in the -products-completed operations hazard-, and for medical expenses under COVERAGE C regardless of the number of:
    - a. Insureds;
    - b. Claims made or -suits- brought; or
    - c. Persons or organizations making claims or bringing -suits-.
  3. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the Designated Location General Aggregate Limit for that designated -location-. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Location General Aggregate Limit for any other designated -location- shown in the Schedule above.
  4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Location General Aggregate Limit.

- B. For all sums which the insured becomes legally obligated to pay as damages caused by -occurrences- under COVERAGE A (SECTION I), and for all medical expenses caused by accidents under COVERAGE C (SECTION II), which cannot be attributed only to operations at a single designated -location- shown in the Schedule above:
1. Any payments made under COVERAGE A for damages or under COVERAGE C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Location General Aggregate Limit.
- C. When coverage for liability arising out of the -products-completed operations hazard- is provided, any payments for damages because of -bodily injury- or -property damage- included in the -products-completed operations hazard- will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Location General Aggregate Limit.
- D. For the purposes of this endorsement, the **Definitions** Section is amended by the addition of the following definition:
- Location- means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
- E. The provisions of Limits Of Insurance (SECTION III) not otherwise modified by this endorsement shall continue to apply as stipulated.



MCH-Fri May 21 10:08:05 2004



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT

NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NOTICE OF OCCURRENCE**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

The following is added to Paragraph 2. Duties in the Event of Occurrence, Offense, Claim or Suit of  
SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

An "occurrence," or offense originally reported to your workers compensation carrier may later develop into a claim which may be covered by this policy. If you notify us as soon as practicable after you become aware that the "occurrence" or offense may result in a claim against this policy, you will not be deemed in violation of the reporting requirements of this condition.

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE\_\_\_\_\_  
DATE

MCH-Fri May 21 10:08:05 2004



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT

NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**KNOWLEDGE OF OCCURRENCE**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

The following is added to Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit** of  
SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

Knowledge of an "occurrence," offense, claim, or "suit" by the agent, servant or employee of any insured will not in itself constitute knowledge by the Named Insured unless an executive officer of the Named Insured's organization received such notice from its agent, servant or employee.

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE\_\_\_\_\_  
DATE



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BODILY INJURY, PROPERTY DAMAGE, PERSONAL  
AND ADVERTISING INJURY LIABILITY DEDUCTIBLE ENDORSEMENT  
(Per Occurrence or Offense)**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

**SCHEDULE**

Coverage	Amount and Basis of Deductible	
Bodily Injury Liability	\$ 5000	per occurrence
Property Damage Liability	\$ 5000	per occurrence
Personal and Advertising Injury Liability (Personal In- jury and Advertising Injury)	\$ 5000	per offense

**APPLICATION OF ENDORSEMENT**

Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury," "property damage," and "personal and advertising injury," ("personal injury" and "advertising injury") however caused:

**NO LIMITATION**

1. Our obligation under the Bodily Injury Liability, Property Damage Liability, Personal and Advertising Injury Liability ("Personal Injury" and "Advertising Injury") Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as

applicable to such coverages, and the Limits of Insurance applicable to Each Occurrence or offense for such coverages will be reduced by the amount of such deductible. Aggregate Limits for such coverages shall not be reduced by the application of such deductible amount.

2. The deductible amounts apply to damages and all legal and loss adjustment expenses.
3. The deductible amounts stated in the Schedule above apply:
  - a. Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
  - b. Under Property Damage Liability Coverage, to all damages because of "property damage"; or
  - c. Under Personal and Advertising Liability ("Personal Injury" and "Advertising Injury") Coverage, to all damages because of "personal injury" or "advertising injury"

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as the result of any one "occurrence" or offense, regardless of the number of persons or organizations who sustain damages because of that "occurrence" or offense.

4. The terms of this insurance, including those with respect to our right and duty to defend any "suits" seeking those damages and your duties in the event of an "occurrence," offense, claim or "suit," apply.

irrespective of the application of the deductible amount.

5. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us..

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ENDORSEMENT

NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### AMENDMENT TO OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

Condition 4. Other Insurance of SECTION IV -  
**COMMERCIAL GENERAL LIABILITY CONDITIONS** is  
deleted in its entirety and is replaced by the following:

#### 4. Other Insurance

##### a. Primary Insurance

This insurance is primary except when b. below  
applies.

##### b. Excess Insurance

This insurance is excess over any other insurance,  
whether primary, excess, contingent or on any other  
basis:

- (1) That is Fire, Extended Coverage, Builder's Risk,  
Installation Risk or similar coverage for "your  
work";
- (2) That is Fire insurance for premises rented to  
you or temporarily occupied by you with per-  
mission of the owner;
- (3) If the loss arises out of the maintenance or use  
of aircraft, "auto" or watercraft to the extent not  
subject to Exclusion g. of Coverage A (Section  
I); or

- (4) That is valid and collectible insurance available  
to you under any other policy.

When this insurance is excess, we will have no duty  
under Coverages A or B to defend the insured  
against any "suit" if any other insurer has a duty to  
defend the insured against that "suit." If no other in-  
surer defends, we will undertake to do so, but we will  
be entitled to the insured's rights against all those  
other insurers.

When this insurance is excess over other insurance,  
we will pay only the amount of the loss, if any, that  
exceeds the sum of:


- (1) The total amount that all such other insurance  
would pay for the loss in the absence of this in-  
surance; and
- (2) The total of all deductible and self-insured  
amounts under all other insurance.

If a loss occurs involving two or more policies, each  
of which states that its insurance will be excess,  
then our policy will contribute on a pro rata basis.

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AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

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 <b>SCOTTSDALE INSURANCE COMPANY®</b>  Attached to and forming a part of Policy No. BCS0008003 Named Insured ARENA CONSTRUCTION COMPANY,	<b>ENDORSEMENT</b> NO. _____  Endorsement Effective Date 05-03-04 12:01 A.M., Standard Time Agent No. 31729
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### EMPLOYEE BENEFIT LIABILITY

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

##### SCHEDULE

Coverage	Limits of Insurance	Premium
Employee Benefits Programs	\$ <u>1,000,000</u> Each Employee \$ <u>1,000,000</u> Aggregate	\$ <span style="background-color: black; color: black;">[REDACTED]</span>

#### COVERAGE

##### 1. Insuring Agreement

We will pay under this endorsement those sums that the "insured" becomes legally obligated to pay as damages because of any negligent act, error or omission of the "insured," or of any other person for whose acts the "insured" is legally liable. The negligent act, error or omission must be committed in the "administration" of your "employee benefit program" during the policy period. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS** of the **COMMERCIAL GENERAL LIABILITY COVERAGE FORM, CG 00 01**.

The negligent act, error or omission must take place in the "coverage territory." We will have the right and duty to defend any "suit" seeking those damages. But:

- a. The amount we will pay for damages is limited as described in the **LIMITS OF INSURANCE** section of this endorsement;
- b. We may at our discretion, investigate any report of a negligent act, error or omission and settle any claim or "suit" that may result; and

- c. Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

##### 2. Exclusions

Insurance under this endorsement does not apply to:

- a. Loss arising out of any dishonest, fraudulent, criminal or malicious act or omission, committed by any "insured";
- b. "Bodily injury," "property damage," "personal injury" or "advertising injury";
- c. Loss arising out of failure of performance of contract by any insurer;
- d. Loss arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program";
- e. Any claim or "suit" based upon:
  - (1) failure of any investment to perform as represented by any "insured";
  - (2) advice given to any person to participate or not to participate in any plan included in the "employee benefit program";

- f. Loss arising out of your failure to comply with the mandatory provisions of any law concerning workers compensation, unemployment insurance, social security, disability benefits or any similar law; or
- g. Loss for which the "insured" is liable because of liability imposed on a fiduciary by the Employee Retirement Security Act of 1974, as now or hereafter amended.

#### WHO IS AN INSURED

With respect to this endorsement only:

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are "insureds," but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an "insured." Your members, your partners, and their spouses are also "insureds," but only with respect to the conduct of your business.
  - c. A limited liability company, you are an "insured." Your members are also "insureds," but only with respect to the conduct of your business. Your managers are "insureds," but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture, or limited liability company, you are an "insured." Your directors and stockholders are also "insureds," but only with respect to their liability as your directors or stockholders.
2. Each of the following is also an "insured":
  - a. Your partners, executive officers, members, managers, and employees who are authorized to administer your "employee benefit program."
  - b. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this endorsement.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if

there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period whichever is earlier; and
- b. Coverage under this provision does not apply to any negligent act, error or omission that occurred before you acquired or formed the organization.

No person or organization is an "insured" with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

#### LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Schedule of this endorsement and the rules below fix the most we will pay regardless of the number of:
  - a. "Insureds";
  - b. Claims made or "suits" brought;
  - c. Persons or organizations making claims or bringing "suits";
  - d. Acts, errors or omissions which result in loss; or
  - e. Plans included in your "employee benefit program."
2. The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions committed in the "administration" of your "employee benefit program."
3. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by any one employee, including the employee's dependents and beneficiaries, because of acts, errors or omissions committed in the "administration" of your "employee benefit program."

The Limits of Insurance shown in the Schedule apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding



period for purposes of determining the Limits of Insurance.

#### DEFINITIONS

The following **DEFINITIONS** are added to the policy:

1. "Administration" means any of the following acts that you do or authorize a person to do:
  - a. Counseling employees, including their dependents and beneficiaries, with respect to the "employee benefit program"; or
  - b. Handling records in connection with the "employee benefit program"; or
  - c. Effecting or terminating any employee's participation in a plan included in the "employee benefit program."
2. "Coverage territory" means the United States of America (including its territories and possessions), Puerto Rico and Canada.
3. "Employee benefit program" means the following plans:
  - a. Group life insurance, group accident or health insurance, "profit sharing plans," pension plans, "stock subscription plans," vacation and savings plans, provided that no one other than an employee may subscribe to such insurance or plans; or
  - b. Unemployment insurance, social security benefits, workers compensation and disability benefits; or
  - c. Any other similar plan designated in the Schedule.
4. "Insured" means any person or organization qualifying as such under **WHO IS AN INSURED** section of this endorsement.
5. "Profit sharing plans" means only such plans that are equally available to all full time employees.

6. "Stock subscription plans" means only such plans that are equally available to all full time employees.

For the purposes of this endorsement, the definition of "suit" contained in the **DEFINITIONS** section of the policy is deleted in its entirety and is replaced with the following:

"Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding alleging such damages to which you must submit or submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.

#### CONDITIONS

It is agreed that Item 2. **Duties In The Event Of Occurrence Offense, Claim Or Suit** paragraphs a. and b. of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** are deleted for purposes of this endorsement and replaced with the following:


##### 2. Duties In The Event Of Act, Error Or Omission, Claim Or Suit.

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. Notice should include:
  - (1) What the act, error or omission was and when it occurred; and
  - (2) The names and addresses of any employees who may suffer damages as a result of the act, error or omission.
- b. If a claim is received by any "insured" you must:
  - (1) Immediately record the specifics of the claim and the date received; and
  - (2) Notify us as soon as practicable. You must see to it that we receive written notice of the claim as soon as practicable.

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AUTHORIZED REPRESENTATIVE

DATE

 <b>SCOTTSDALE INSURANCE COMPANY®</b>	<b>ENDORSEMENT</b> NO. _____
Attached to and forming a part of Policy No. BCS0008003 Named Insured ARENA CONSTRUCTION COMPANY,	Endorsement Effective Date 05-03-04 12:01 A.M., Standard Time Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LEAD CONTAMINATION EXCLUSION**

This endorsement modifies insurance provided under:


**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

This endorsement excludes "occurrences" at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured; or from the operations of the insured, which result in:

- a. "Bodily Injury" arising out of the ingestion, inhalation or absorption of lead in any form;
- b. "Property Damage" arising from any form of lead;
- c. "Personal Injury" arising from any form of lead;
- d. "Advertising Injury" arising from any form of lead;
- e. **Medical Payments** arising from any form of lead;
- f. Any loss, cost or expense arising out of any request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of lead; or
- g. Any loss, cost or expense arising out of any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of lead.

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AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

	<b>SCOTTSDALE INSURANCE COMPANY®</b>	<b>ENDORSEMENT NO. _____</b>
Attached to and forming a part of Policy No. BCS0008003 Named Insured ARENA CONSTRUCTION COMPANY,		Endorsement Effective Date 05-03-04 12:01 A.M., Standard Time Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED-OWNERS, LESSEES OR CONTRACTORS  
(WITH OPTIONAL COVERAGE PROVISIONS)**

This endorsement modifies insurance provided under the following:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name of Person or Organization:

SEE BELOW

Who Is An Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only to the extent the additional insured is held liable for the Named Insured's negligent acts or omissions arising from occurrences directly caused by, and while in the course of the Named Insured's ongoing operations performed for that additional insured.

Optional Coverage Provisions applicable to the above. The selected option(s) is designated by a mark in the box to the left of the option.

- ☐ OPTION A. The insurance provided by this endorsement shall be primary, but only in the event of the Named Insured's sole negligence.
- ☒ OPTION B. The insurance provided by this endorsement shall be primary and noncontributory, but only in the event of the Named Insured's sole negligence.
- ☒ OPTION C. The insurance provided by this endorsement is amended to include any person or organization that the Named Insured has agreed and/or is required by contract to name as an additional insured, per schedule on file with company.

Additional Premium \$ [REDACTED]

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\_\_\_\_\_  
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SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT

NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### ASBESTOS EXCLUSION

The coverage afforded by this policy does not apply to bodily injury, personal injury or property damage arising out of:

1. Inhaling, ingesting or prolonged physical exposure to asbestos or goods or products containing asbestos; or
2. The use of asbestos in construction or manufacturing any good, product or structure; or
3. The removal of asbestos from any good, product or structure; or

4. The manufacture, sale, transportation, storage or disposal of asbestos or goods or products containing asbestos.

The coverage afforded by the policy does not apply to payment for the investigation or defense of any loss, injury or damage or any cost, fine or penalty or for any expense of claim or suit related to any of the above.

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AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

Home Office Copy



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

Attached to and forming a part of

Policy No. BCS0008003

Named Insured ARENA CONSTRUCTION COMPANY,

Endorsement Effective Date 05-03-04

12:01 A.M., Standard Time

Agent No. 31729

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### RESIDENTIAL EXCLUSION

This insurance does not apply, either directly or as assumed by contract, for any lawsuits, actions or any other claim for liability for "bodily injury," "property damage" or "personal and advertising injury" ("personal injury" or "advertising injury") arising from or in any way relating to the insured's operations or interest or any other involvement in any condominium, townhouse, apartment building or residential:

1. Development;
2. Construction;
3. Reconstruction; or
4. Renovation

that occurs:

- a. Prior to inception of this policy;
- b. During this policy term; or
- c. Prior to the inception of this policy and that continues into this policy term.

This exclusion applies in the following state(s):

ALL STATES

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### CONTRACTUAL LIABILITY—RAILROADS

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE FORM

With respect to operations performed for, or affecting, a Railroad, definition "insured contract" of SECTION V—DEFINITIONS section is replaced by the following:

"Insured contract" means:

- a. A contract for lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for

"bodily injury" or "property damage" to a third person or organization. Tort Liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

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Audit Premium means the premium for this Coverage Part that is developed by calculating the difference between the Advance Premium and the Earned Premium.

Earned Premium means the premium for this Coverage Part that is developed by applying the rate(s) in

the policy to the actual premium basis for the audit period.

Minimum Premium means the lowest premium for which this Coverage Part will be written for the policy period.

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AUTHORIZED REPRESENTATIVE

DATE





SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**MINIMUM AND ADVANCE PREMIUM/MINIMUM  
EARNED CANCELLATION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**

**SCHEDULE**

MINIMUM PREMIUM \$ \_\_\_\_\_

Item 5. Premium Audit Condition of SECTION IV—  
COMMERCIAL GENERAL LIABILITY CONDITIONS,  
SECTION IV—LIQUOR LIABILITY CONDITIONS and  
SECTION IV—PRODUCTS/COMPLETED OPERATIONS  
LIABILITY CONDITIONS is replaced by:

**5. Premium Audit**

- We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- Premium shown in this Coverage Part as Advance Premium is a deposit premium only. At the close of each audit period we will compute the Earned Premium for that period and a billing notice of any Audit Premium due will be sent to the first Named Insured. The due date for the Audit Premium is the date shown as the due date on the bill. If the sum of the Advance Premium and Audit Premiums is greater than the Earned Premium, we will return the excess to the first Named Insured, subject to us retaining a Minimum Premium as shown above in the Schedule, including any premium adjustments made by endorsement to this policy during the policy period.

- The first Named Insured must keep records of the information we need for premium computation, and provide us or our representative copies at such times as we may request. In the event the first Named Insured fails or refuses to allow us or our representative to audit your records, we may unilaterally charge an Audit Premium for the policy period at or up to double the Minimum or Advance Premium, whichever is greater, and such Audit Premium shall be immediately due and payable on notice to the first Named Insured.
- If you request cancellation of this Coverage Part or policy, we will retain not less than twenty-five percent (25%) of the Advance Premium.

For purposes of this endorsement, the terms Advance Premium, Audit Premium, Earned Premium and Minimum Premium are defined as follows:

Advance Premium means the premium for this Coverage Part that is stated in the policy declarations and payable in full by the first Named Insured at the inception of the policy.



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### SUBSIDENCE EXCLUSION

This policy does not apply to "bodily injury" or "property damage" caused by, resulting from, attributable or contributed to, or aggravated by the subsidence of land as a result of landslide, mudflow, earth sinking or shifting, resulting from operations of the named insured or any subcontractor of the named insured.

All other terms and conditions remain unchanged.

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT  
NO. \_\_\_\_\_

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ENDORSEMENT**

In the event Scottsdale Insurance Company fails to pay any loss which is payable under this policy as a result of its insolvency, Nationwide Mutual Insurance Company agrees it shall become liable for the loss after receiving written notice and demand for payment from the insured. Any payment shall be subject to and limited by the terms and conditions of this policy.

Nationwide Mutual Insurance Company

President

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE